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In re Application of	:	
HUBBARD et al.	:	
Application No.: 10/549,649	:	
PCT No.: PCT/US2004/006084	:	
Int. Filing Date: 19 March 2004	:	DECISION
Priority Date: 19 March 2003	:	
Attorney Docket No.: ASI/1400(US)	:	
For: SYSTEM FOR MEASURING AND	:	
INDICATING CHANGES IN THE RESISTANCE	:	
OF A LIVING BODY	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) and applicants' request for status under 37 CFR 1.42, both filed 17 October 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 19 March 2004, applicants filed international application PCT/US2004/006084, which designated the United States and claims a priority date of 19 March 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2005.

On 15 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 02 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration of the inventors filed 15 September 2005 was not in compliance with 37 CFR 1.497(a)-(b) because the signature of one of the inventors was missing and because the citizenship and residence of the deceased inventor Lafayette Ron Hubbard was missing.

On 17 October 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, an assertion of small entity status, a petition/fee for a four-month extension of time, a statement of facts by Robert A. Selden, the surcharge under 37 CFR 1.492(h), and a Supplemental Sheet for the declaration of inventors filed 15 September 2005. The indication in the declaration of inventors that inventor Lafayette Ron Hubbard is deceased and the Supplemental Sheet have been treated as a request for status under 37 CFR 1.42.

### **DISCUSSION**

#### **Request for Status Under 37 CFR 1.42**

The wording of an oath or declaration cannot be amended, altered, or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be provided. MPEP § 602.01. Accordingly, a replacement page or a supplemental page to the original declaration is not sufficient. In the instant case, a supplemental declaration including all of the information in the declaration of inventors filed 15 September 2005 in addition to the citizenship of the deceased inventor and signed by the legal representative for the deceased inventor is required. MPEP § 603, Example 3.

#### **Petition Under 37 CFR 1.47(a)**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1)-(3) have been met.

Item (4) has not been met. The declaration of inventors filed 15 September 2005 is not in compliance with 37 CFR 1.497(a)-(b). The declaration must identify the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name *and citizenship* of the deceased inventor (37 CFR 1.497(a)(3)). (Although the published international application lists the deceased inventor as Ron LAFAYETTE, it is clear from a review of international application PCT/US2004/006084 that the deceased inventor should have been indicated as Lafayette Ron HUBBARD in the published international application. The deceased inventor is identified properly in the declaration filed 15 September 2005.)

### **CONCLUSION**

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response, must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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